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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/608,645

06/30/2000

Brian M. Leitner

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EXAMINER

STRANGE, AARON N

ART UNIT

PAPER NUMBER

2153

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

02/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/608,645

Applicant(s)

LEITNER ET AL.

Examiner

Aaron Strange

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/22/2006 have been fully considered but they are not persuasive.
2. With regard to claim 19, and Applicant's assertion that Dobecki fails to disclose that "the send queue context memory is connected to both the transmitter and the receiver through the first connection and through the send queue engine" (Page 12 of remarks), the Examiner respectfully disagrees. Fig 7 shows that the send queue context memory (422) is connected to both the transmitter (418) and the receiver (424) through the first connection and through the first connection and through the send queue engine (the context memory is directly connected to the send queue engine (428p) and the transmitter (418), and indirectly connects the receiver through the send queue engine, and several other components (PG, PC, 428d, and 424).
3. Applicant's arguments directed toward the receive queue context memory (Page 13 of remarks) are not persuasive for similar reasons (See connections shown in Fig 7).
4. While the Examiner appreciates that there may be differences between the arrangement of the elements in Dobecki and the present invention, the current language of the claims is not specific enough to articulate them. The concept of a "connection" is quite broad, and in the system disclosed by Dobecki, nearly every element shown in Fig

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7 is "connected" to nearly every other element. The Examiner recommends that Applicant consider more specific language to clearly define the arrangement of the components in claim 1.

5. With regard to claim 1, and Applicant's assertion that claim 1 is directed to statutory subject matter, the Examiner respectfully disagrees. Applicant's assertion that "tracking packet sequence numbers" produces a "concrete, useful, and tangible result" (Page 9 of remarks) is not persuasive. A tracking operation as claimed does not produce a result at all. Nothing is changed, modified, or stored by virtue of the tracking operation. As claimed, it merely ends in a "check", which is not a useful, concrete, and tangible result.

Applicant's arguments directed to whether "the present invention has practical application in the technological arts" and that "the claims do not describe merely functional descriptive material, non-functional descriptive material, or a natural phenomenon" (Page 9 of Remarks) are unclear, since the claims were not rejected under these grounds.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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7. Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility.

8. With regard to claim 1, the claimed method fails to produce a useful, concrete, and tangible result. The final result of the claim is merely a "track" which includes a series of steps ending in a "check" to determine if the sequence number of a response packet matches a stored sequence number. The track or check has not been used in a disclosed practical application nor made available for use in a disclosed practical application. Claims 3 and 4 remedy this deficiency (by accepting the packet) only under the condition specified in those claims. The Examiner recommends amending the claim to recite a useful, concrete, and tangible result that occurs in response to the claimed checking step (such as accepting/dropping the packet). Claim 10 recites substantially identical limitations and is rejected under the same rationale.

9. All claims not individually rejected are rejected by virtue of their dependency from the above claims and the fact that they do not remedy the deficiency outlined above.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 19-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Dobecki (US 6,611,879).

12. In referring to claim 19, Dobecki shows a network interface (fig. 7) comprising:

A transmitter (418);

A receiver (424);

A send queue context memory (422, Col 17, Line 62 to Col 18, Line 2);

A receive queue context memory (424, Col 16, Lines 55-63);

A send queue engine (ME 315: 428p) connected to the send queue (422) context memory and the transmitter and the receiver (col. 16 lines 40- col. 17 line 2), wherein the send queue engine is connected to the send queue context memory by a first connection (Fig 7) and the send queue context memory is connected to both the transmitter and the receiver through the first connection and through the send queue engine (See Fig 7 and above discussion);

A receive queue engine (ME 315: 428d) connected to the received queue (424) context memory and the transmitter and the receiver (col. 16 lines 40- col. 17 line 2), wherein the receive queue engine is connected to the receive queue context memory by a second connection separate from the first connection (Fig 7 and Col 16, Line 40 to Col 17, Line 10), and the receive queue context memory is connected to both the

transmitter and the receiver through the first connection and through the receive queue engine (See Fig 7 and above discussion).

13. In referring to claim 20 and 21, the network interface further comprises of plurality of ports receiving data from a corresponding plurality of NGIO and further comprising a virtual interface architecture establishing communication with plurality of NGIO links (col. 9 lines 63- col. 10 line 5).

14. With regard to claim 22, Dobecki further discloses that the first connection directly connects the send queue engine to the send queue context memory, and the second connection directly connects the receive queue engine partitioned from the send queue engine to the receive queue context memory (Fig 7 and Col 16, Line 40 to Col 17, Line 10).

15. With regard to claim 23, Dobecki further discloses that the send queue engine is directly connected to the transmitter and directly connected to the receiver (Fig 7 and Col 16, Line 40 to Col 17, Line 10).

16. With regard to claim 24, Dobecki further discloses that the receive queue engine is directly connected to the transmitter and directly connected to the receiver (Fig 7 and Col 16, Line 40 to Col 17, Line 10).

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

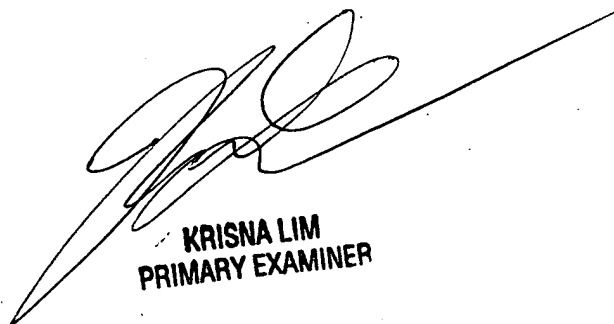
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS

1/31/2007



KRISNA LIM
PRIMARY EXAMINER